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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/773,352	01/31/2001	Kenneth Carroll	CRL/002	4024
530	7590	01/15/2004	EXAMINER	
LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK 600 SOUTH AVENUE WEST WESTFIELD, NJ 07090			A, PHI DIEU TRAN	
			ART UNIT	PAPER NUMBER
			3637	

DATE MAILED: 01/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/773,352

Applicant(s)

CARROLL, KENNETH

Examiner

Phi D A

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) ____ is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☐ Other: ____

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 30-46 rejected under 35 U.S.C. 103(a) as being unpatentable over Wrigley (450127) in view of Freeman (4245545) and Tomkinson (1598407).

Wrigley shows a safety anchor in combination with a wall (E,F) adapted to provide an attachment point to the wall for attaching a safety tether thereto, a wall of a building (E) having an interior surface and an exterior surface, a safety anchor (figure 5) having a center shaft (G) comprising a tether attachment end (the ring at bottom) and a wall piercing end, the tether attachment end including an aperture adapted for coupling to the tether to provide a fall restraint to a human coupled to the tether (inherently capable of doing so), the center shaft having a tensile strength adapted to support at least the full weight of a human (the shaft inherently capable of doing so it is used to hang material, also, the weight of the human is not yet claimed), a collar (h, I) movable up and down along the center shaft and having an upper portion (i) proximate to the attachment end and having a first diameter, a lower portion (h) proximate to the piercing end and having a second diameter larger than the first diameter of the upper portion and the first diameter of the piercing end, the lower portion of the collar comprising a flange (h) extending radially outwardly from the center shaft, the aperture is formed by a ring disposed on the attachment end, the wall comprising a roof of the building (ceiling is part of a roof of a structure), a pivot member (b) disposed through the center shaft.

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Wrigley does not show the piercing end having an upper portion having a first diameter and a lower portion inwardly tapering to a sharp piercing point to facilitate the piercing of the wall piercing end through the exterior and interior surface of the wall, first and second members pivotally coupled to the center shaft between a closed position against the center shaft and an open position extending away from the shaft, the first diameter of the wall piercing end being equal to or greater than the distance between the first and second members when in the closed position, a locking mechanism coupled to the collar for locking the collar to the center to securely hold the lower portion of the collar against the exterior surface of the wall.

Freeman shows a piercing end (55, figure 12) having an upper portion having a first diameter and a lower portion inwardly tapering to a sharp piercing point to facilitate the piercing of the wall piercing end through the exterior and interior surface of a wall, first and second members (56) pivotally coupled to the center shaft between a closed position against the center shaft and an open position extending away from the shaft, the first diameter of the wall piercing end being equal to or greater than the distance between the first and second members when in the closed position.

Tomkinson discloses a locking mechanism (67-68) coupled to a collar (61) for locking the collar to the center shaft to securely hold the collar at a fixed location on the center shaft.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Wrigley to show the piercing end having an upper portion having a first diameter and a lower portion inwardly tapering to a sharp piercing point to facilitate the piercing of the wall piercing end through the exterior and interior surface of the wall, first and second members pivotally coupled to the center shaft between a closed position against the center shaft

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and an open position extending away from the shaft, the first diameter of the wall piercing end being equal to or greater than the distance between the first and second members when in the closed position, a locking mechanism coupled to the collar for locking the collar to the center to securely hold the lower portion of the collar against the exterior surface of the wall because having a piercing end having an upper portion having a first diameter and a lower portion inwardly tapering to a sharp piercing point to facilitate the piercing of the wall piercing end through the exterior and interior surface of a wall, first and second members pivotally coupled to the center shaft between a closed position against the center shaft and an open position extending away from the shaft, the first diameter of the wall piercing end being equal to or greater than the distance between the first and second members when in the closed position would enable the easy piercing and anchoring of the anchor to a wall structure as taught by Freeman, and having a locking mechanism coupled to a collar for locking the collar to the center shaft would enable the anchor to be securely fixed at desired location on the center shaft and thus enable the collar to fixedly stay in the desired position.

Per claims 32, 40, Wrigley as modified shows all the claimed limitations except for the shaft having a tensile strength of at least 5000 pounds.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Wrigley's modified structure to show the shaft having a tensile strength of at least 5000 pounds since a shaft having a tensile strength of at least 5000 pounds would ensure the shaft having sufficient strength to provide hanging for articles.

Per claims 33, 41, Wrigley as modified shows the locking mechanism being a threaded member.

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Per claims 34, 42, Wrigley as modified shows a spring (taught by the Freeman col 2 line 18) that biases at least one of the first and second members away from the center shaft.

Per claim 44, Wrigley as modified shows the first and second members each including ends that meet to form the piercing end when the members are in the closed position.

Response to Arguments

3. Applicant's arguments with respect to claims 30-46 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows different anchoring device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 703-306-9136. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-872-9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.



Phi Dieu Tran A
January 11, 2004